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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,002	07/20/2006	Yaron Reich	162	2951
77345	7590	01/07/2010	EXAMINER	
DR. D. GRAESER LTD. 9003 FLORIN WAY UPPER MARLBORO, MD 20772			VAN BRAMER, JOHN W	
			ART UNIT	PAPER NUMBER
			3622	
			NOTIFICATION DATE	DELIVERY MODE
			01/07/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/587,002	REICH, YARON	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOHN VAN BRAMER	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 October 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 66-91,93,95 and 96 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 66-91,93,95 and 96 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 14, 2009 has been entered.

### ***Response to Arguments***

2. The amendment filed on October 14, 2009, has cancelled claims 92, and 94. Claims 66, 67, 69-73, 75, 78, 80, 84, and 86 have been amended and new claims 95 and 96 have been added. Thus, the currently pending claims addressed below are claims 66-91, 93, and 95-96.

### ***Claim Rejections - 35 USC § 101***

3. The amendment filed on October 14, 2009 has overcome the 35 U.S.C. 101 rejection of Claims 92 and 94 by virtue of the cancellation of said claims.

4. The amendment filed on October 14, 2009 has failed to overcome the 35 U.S. C. 101 rejection of Claims 66-85 and 93. Thus the rejection is maintained. The applicants amendment indicates that the method is computer based, however it

does not describe which steps are being performed by a computer. None of the claimed steps include an apparatus that is performing the steps. The examiner agrees that the method must be computer networked based because the prediction that is claimed is based on satellite data and radar data that is received, thus a satellite or radar must have obtained the data at some point. Additionally, the selecting of the advertisement is done based upon a rule that was provided at some point and time by a rule engine. However, none of these structural elements are claimed as actual performing steps and as such they are merely "transmitting or receiving data" and as such are considered "insignificant extra solution activity" and do not satisfy statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Newly added claims 95 and 96 are now rejected under 35 U.S.C. 101 by virtue of dependency.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 66-89, 93, 95 and 96 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (PGPUB: US 2002/0188506 A1) in view of Simpson et al. (U.S. Patent Number: 5,999,882).

Claim 66: Smith discloses a computer network based method for delivering a weather-related advertisement to an individual, the method comprising:

- a. Providing a prediction of the weather wherein said weather prediction is determined for a geographically confined area and a defined period of time, and based on at least one meteorological parameter. (Fig. 1; Page 2, paragraphs [0027] through [0031]; and Page 5, paragraph [0056] through Page 6, paragraph [0067])
- b. Building a weather-related advertisement according to a scenario determined at least partially according to said prediction of the weather. (Paragraphs [0067]; [0028], [0031]; [0057]; [0059]; and [0063]; Figs 1, 7a, and 7b)
- b. Selecting said weather-related advertisement according to said prediction of the weather and at least one rule by a rule engine. (Paragraphs [0067]; [0028], [0031]; [0057]; [0059]; and [0063]; Figs 1, 7a, and 7b)
- c. Delivering said weather-related advertisement to said individual. (Paragraphs [0059], [0063], [0064], and [0067]; Figs 7a, 7b)

While Smith does disclose that the meteorological data is obtained from a weather database that includes weather forecasts in the area of travel, he does not explicitly state that the meteorological parameters within the database consist of satellite data and radar data. However, the analogous art of Simpson discloses that weather databases include information consisting of satellite data and radar data in Col 5, line 49 through Col 6, line 9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include satellite data

and radar data in the weather database of Smith. The rational for including satellite and radar data is the these types of data are one of a limited number of predictable types of data that are used in forecasting weather for given geographical regions.

Claim 67: Smith and Simpson disclose the method of claim 66 wherein said geographically confined area and a defined period of time is automatically obtained from at least one source chosen from the group consisting of a wireless device, a third party device, a third party application, and the internet. (Paragraphs [0008]; [0024]; [0026]; [0033]; and [0048])

Claim 68: Smith and Simpson disclose the method of claim 67 wherein said wireless device is selected from the group consisting of a mobile telephone, portable device, PDA, mp3 player, mobile processing unit, mobile computing unit. (Paragraphs [0024] and [0025])

Claim 69: Smith and Simpson disclose the method of claim 66 wherein said Rule engine selects said weather related advertisement based on external data selected from the group consisting of meteorological parameters, advertiser information, and user information. (Paragraphs [0030], [0031], and [0067])

Claim 71: Smith and Simpson disclose the method of claim 69 wherein said user information is selected from the group consisting of historical data, preferences,

brand loyalty, hobbies, marital status, age, sex, health, consuming habits, or family status. (Paragraph [0063])

Claim 72: Smith and Simpson disclose the method of claim 69 wherein said advertiser information is obtained from an advertiser or from a third party. (Paragraphs [0028] and [0039])

Claim 73: Smith and Simpson discloses the method of claim 72 wherein said advertiser information is selected from the group consisting of advertisement, advertisement rule, end user characteristics, target audience information, delivery mode and advertisement media. (Paragraphs [0030], [0031], and [0067])

Claim 74: Smith and Simpson disclose the method of claim 66 wherein said at least one rule is abstracted from a rule engine matrix. (Paragraphs [0061] through [0065])

Claim 75: Smith and Simpson disclose the method of claim 74 wherein said matrix comprises data relating to user information, advertiser data, and meteorological parameters. (Paragraphs [0061] through [0065] and [0067])

Claim 76: Smith and Simpson disclose the method of claim 66 wherein said advertisement is delivered to a display. (Paragraphs [0024] through [0026] and Paragraphs [0061] through [0065])

Claim 77: Smith and Simpson disclose the method of claim 76 wherein said display is associated with a device selected from the group consisting of a computer, wireless device, mobile telephone, billboard, interactive television, a hoarding, a sign, portable device, embedded device, PDA, and a displayed Web page.  
(Paragraphs [0024] through [0026] and Paragraphs [0061] through [0065])

Claim 78: Smith and Simpson disclose the method of claim 77, wherein said wireless device comprises a display screen, and wherein said advertisement is displayed in conjunction with said prediction of the weather on said display screen.  
(Paragraphs [0024] through [0026] and Paragraphs [0061] through [0065])

Claim 79: Smith and Simpson disclose the method of claim 66, wherein said advertisement is selected according to a plurality of rules by said rule engine.  
(Paragraphs [0061] through [0065])

Claim 80: Smith and Simpson disclose the method of claim 66, wherein said rule engine compiles said advertisement specific to meteorological parameters, user reformation arid advertiser information. (Paragraphs [0024] through [0026];  
Paragraphs [0061] through [0065] and [0067])

Claim 81: Smith and Simpson disclose the method of claim 66 wherein said advertisement is delivered in the form selected from the group consisting of text, coupon, animation, video, audio, storyboard and picture. (Paragraphs [0070] through [0072])

Claim 82: Smith and Simpson disclose the method of claim 66 wherein said advertisement is delivered via wireless communication protocol. (Paragraphs [0024] through [0030])

Claim 83: Smith and Simpson disclose the method of claim 66, wherein the advertisement is delivered to a plurality of individuals having at least one similar characteristic. (Paragraphs [0059] through [0063])

Claim 84: Smith and Simpson disclose the method of claim 66, further comprising: determining efficacy of an advertisement on consumer activity wherein said efficacy is determined based on statistical analysis that measure the effect of a change in the related levels at least one meteorological parameter on a consumer activity with respect to at least one good chosen from the group consisting of product, service, coupon, and marketing campaign. (Paragraphs [0059] through [0067], [0070] through [0072]) (Note that the specific example provided in the cited sections is based upon the efficacy of an advertisement based upon the grade of gasoline either selected or typically chosen the consumer, but paragraph [0067] indicates that

the adaptive advertisements described can be provided based upon the weather and a neural network.)

Claim 85: Smith and Simpson discloses the method of claim 84 wherein an advertisement is updated according to said efficacy report. (Paragraphs [0070] through [0072])

Claim 93: Smith and Simpson disclose the method of claim 66 wherein said rule engine comprises a learning engine for learning at least one aspect of the user preference(s) and/or consuming habit(s) according to the weather. (Paragraphs [0061] through [0065] and [0067])

Claim 95: Smith and Simpson disclose the method of claim 66 wherein said prediction of the weather is further determined based on at least one of numerical models, Meteorological Readings, environmental parameters, historical data, and historical meteorological parameters. (Fig. 1; Page 2, paragraphs [0027] through [0031]; and Page 5, paragraph [0056] through Page 6, paragraph [0067])

Claim 96: Smith and Simpson disclose the method of claim 93 wherein said user preference(s) and/or consuming habit(s) according to the weather are obtained from an external database that monitors the user's actual consuming habits. (Fig. 1; Page

2, paragraphs [0027] through [0031]; and Page 5, paragraph [0056] through Page 6, paragraph [0067])

Claim 86: Smith discloses a system for providing weather-related advertising to a user through an electronic device, comprising:

- a. A weather server for providing a forecast based on at least one meteorological parameter a wherein said meteorological parameters are determined for a geographically confined area and a defined period of time. ((Fig. 1; Page 2, paragraphs [0027] through [0031]; and Page 5, paragraph [0056] through Page 6, paragraph [0067]))
- b. An advertising rule engine for selecting an advertisement at least partially according to said at least one meteorological parameter, wherein said rule engine comprises a learning engine for learning at least one aspect of the user preference(s) and/or consuming habit(s) according to said meteorological parameter. (Paragraphs [0067]; [0028], [0031]; [0057]; [0059]; and [0063]; Figs 1, 7a, and 7b)
- c. A server for serving said advertisement to the electronic device. (Paragraphs [0059], [0063], [0064], and [0067]; Figs 7a, 7b)

While Smith does disclose that the meteorological data is obtained from a weather database that includes weather forecasts in the area of travel, he does not explicitly state that the meteorological parameters within the database consist of satellite data

and radar data. However, the analogous art of Simpson discloses that weather databases include information consisting of satellite data and radar data in Col 5, line 49 through Col 6, line 9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include satellite data and radar data in the weather database of Smith. The rational for including satellite and radar data is the these types of data are one of a limited number of predictable types of data that are used in forecasting weather for given geographical regions.

Claim 87: Smith and Simpson disclose the system of claim 86, wherein said rule engine further comprises a database for storing at least one user characteristic and for selecting said advertisement also according to said user characteristic.  
(Paragraphs [0059] through [0063])

Claim 88: Smith and Simpson disclose the system of claim 87, wherein said rule engine comprises an advertising matrix for selecting said advertisement according to a plurality of rules. (Paragraphs [0061] through [0065])

Claim 89: Smith and Simpson disclose the system of claim 88, wherein said rule engine comprises a plurality of target groups and wherein said advertising matrix selects a target group for the end user such that said advertisement is selected according to said target group. (Paragraphs [0059] through [0065]).

Claim 70: Smith and Simpson disclose the method of claim 69 wherein said meteorological parameters is a forecast for a requested area or region. However, Smith does not specifically state that the weather information is selected from a third party weather servers chosen from the group consisting of national and international meteorological agency, independent meteorological supplier and a private meteorological data. However, the analogous art of Simpson discloses that the weather information can come from the National Weather Service (Col 5, lines 49-63) which is a third party weather server chosen from the group consisting of national and international meteorological agency, independent meteorological supplier and a private meteorological data. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the third party weather information in the weather database disclosed by Smith. The rational for including such weather information from a national and international meteorological agency; independent meteorological supplier and a private meteorological data is that these are one of a limited number of predictable sources of weather data from which to choose for receiving such data.

7. Claims 90 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (PGPUB: US 2002/0188506 A1) in view of Simpson et al. (U.S. Patent Number: 5,999,882) in further view of Sridhar et al (PG PUB US 2003/0208754 A1) .

Claims 90 and 91: Smith and Simpson discloses the system of claim 88 (Smith: Paragraphs [0059] through [0065]). While Smith does not specifically state that the advertising matrix further builds an advertisement according to a plurality of components including animation components, the analogous art of Sridhar discloses on Page 13, second column, lines 1-12, that it is known to customize the presentation of advertisements in a location based system by modifying visual content to include human characters or animated cartoon characters or a combination thereof. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Smith invention to include components for creating animated advertisement. The rational for including such components is that the value of an advertisement depends on its ability to attract and retain attention of a viewer, and advertisements geared to suit the audiovisual preferences of the viewer would be more successful in retaining the viewer's attention. (Sridhar, Paragraphs [0008] through [0020])

***Response to Arguments***

8. Applicant's arguments with respect to claims 66-91, 93, and 95-96 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN VAN BRAMER whose telephone number is

(571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Van Bramer/  
John Van Bramer  
Examiner, Art Unit 3622